



Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-212 (Insurance adjusters)**

Date last adopted: **May 29, 1970**

Reviewer: **D. Douglas Titus**

Date review completed: **May 24, 2000**

Is this document being reviewed at this time because of a taxpayer or business association request? (If "YES", provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Explain the goal(s) and purpose(s) of the document:

Rule 212 explains that persons licensed and doing business as insurance adjusters are subject to B&O tax at the service rate. The rule explains what types of fees are included within the gross income of the business, and the conditions under which certain costs may be deducted when determining the measure of tax.

2. Need:

YES	NO	
X		Is the document necessary to comply with or clarify the application of the statutes that are being implemented? (E.g., does it provide detailed information not found in the statutes, reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied, etc?)
	X	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
	X	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
	X	Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)

Please explain. **This rule provides important tax-reporting information focused on a specific narrow business activity.**



3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
	X	Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
	NA	Should this ancillary document be incorporated into a rule?
	NA	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affect the information now provided in this document?
	NA	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief explanation of the issue(s).

There are no documents ancillary to this rule.

4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve?
	X	Do changes in industry business methods warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?



Please explain. **The rule as written is organized in a clear manner. At such time as the Department of Revenue chooses to revise WAC 458-20-164 (Insurance agents, brokers and solicitors), however, the information in Rule 212 should be incorporated into Rule 164. Rule 212 should then be repealed.**

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the information provided in the document consistent with the statute(s) that it was designed to implement ? (If “no”, identify the specific statute and explain below. List all statutes being implemented in Subsection 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain. **This rule was adopted under the provisions of RCW 82.32.300, which authorizes the Department to adopt and publish rules to explain the provisions of the Revenue Act.**

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain. **The Department of Revenue has the exclusive authority to administer the B&O and retail sales taxes in this area.**

7. Cost: When responding, consider only the costs imposed by the document and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain. **This is an interpretive rule that imposes no new or additional administrative burdens on businesses that are not already imposed by law.**

8. Fairness: When responding, consider only the impacts imposed by the document and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?

Please explain. **This document currently results in the equitable treatment of those required to comply with it.**



9. LISTING OF DOCUMENTS REVIEWED: (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented: **To the extent these statutes apply to taxation of persons engaged in business as insurance adjusters:**

- **RCW 48.17.050 (“Adjuster” defined);**
- **RCW 82.04.080 (Defines “gross income of the business”);**
- **RCW 82.04.140 (Defines “business”);**
- **RCW 82.04.150 (Defines “engaging in business”);**
- **RCW 82.04.220 (Business and occupation tax imposed); and**
- **RCW 82.04.290 (Tax on . . . service activities).**

Ancillary Documents (i.e., ETAs, PTBs, and ADs): **None**

Court Decisions: **None**

Board of Tax Appeals Decisions (BTAs): **None**

Administrative Decisions (e.g., WTDs): **None**

Attorneys General Opinions (AGOs): **None**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

The following were also examined during this review:

- **RCW 82.04.260 (Tax on . . . Insurance agents, brokers, and solicitors . . .);**
- **RCW 82.04.280 (Tax on . . . insurance general agents. . .);**
- **RCW 48.17.380 (Adjusters—Qualifications for license);**
- **RCW 48.17.410 (Authority of adjuster);**
- **WAC 458-20-111 (Advances and reimbursements); and**
- **WAC 458-20-164 (Insurance agents, brokers and solicitors).**



10. Review Recommendation:

- ☐ Amend
- ☐ Repeal
- ☒ Leave as is
- ☐ Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)
- ☐ Incorporate ancillary document into a new or existing rule. (Subject of this review must be an ancillary document and not a rule.)

Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.)

Rule 212 should be retained at this time, but the information should be incorporated into Rule 164 at such time as that rule is next revised.

11. Manager action: Date: _____

- ☐ Reviewed recommendation ☐ Accepted recommendation
- ☐ Returned for further action

Comments: